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10 APR 1957

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT : Proposed Regulation on Protection of  
Information Relating to Intelligence  
Sources and Methods

1. This memorandum requests your concurrence on the proposed regulation on protection of information relating to intelligence sources and methods referenced in paragraph 3.

2. The problem of denying information relating to the Agency and its operations when such is demanded under subpoenas by the courts or Congress has been the subject of considerable discussion and study within the Agency. After a careful review of the problem and consideration of historical precedent, I am of the opinion that the Agency and its employees will be in a better position to refuse to reveal information if we have a published regulation prohibiting disclosure. The attached draft has been prepared with this specific problem in mind. It has been reviewed and approved by the Office of Security.

3. It is recommended that after concurrence by the Deputy Directors, the attached proposed regulation on protection of information relating to intelligence sources and methods be published.

5/  
LAWRENCE R. HOUSTON  
General Counsel

Attachment

OGC/JDM:bb

Distribution


Orig. & 1 - Addressee  
1 - OGC Subject ✓  
Signer  
Chrono

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OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	INITIALS	DATE
1	Director of Security	<i>H. J. Smith</i>	14 APR 1957
2	General Counsel		
3			
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	ACTION	DIRECT REPLY	PREPARE REPLY
	APPROVAL	DISPATCH	RECOMMENDATION
	COMMENT	FILE	RETURN
	CONCURRENCE	INFORMATION	SIGNATURE
<b>Remarks:</b>  <p>We have no further suggestions to make regarding this proposed regulation.</p> <p>Since, as you say, this regulation addresses itself to court cases and Congressional Committee hearings particularly, we believe the title as it now stands is informative. To meet the objective, we agree that this regulation should be unclassified, but that it carry the control statement "For Official Use Only".</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
Chief, Policy Staff/OS Room A222,			2 April 57
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Here is a redraft of the proposed regulation we discussed yesterday. I think this is a slight improvement and takes care of a couple of minor points you brought up. I am not entirely happy with the title and would welcome suggestions. Expeditionary handling would be appreciated. After getting your "OK" this will be taken directly to the DD/S, DD/I and DD/P for concurrence and then published.

Please bear in mind that the purpose of this regulation is to strengthen our position in regard to court cases and Congressional committee hearings particularly, and that the purpose will be best served by having a short regulation in this form even though closely related material appears elsewhere in Agency regs. It is proposed that this regulation be unclassified.

  
Office of General Counsel

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THE NEW YORK TIMES, TUESDAY, MARCH 26, 1957. y 3

## COURT BIDS U. S. NAME INFORMER

Justices Hold Privilege of  
Secrecy Must Give Way  
in Narcotics Trial

Special to The New York Times.  
WASHINGTON, March 25—  
The Supreme Court ruled today  
that Albert Roviario had a right  
to know the identity of "John  
Doe," a police informer who  
helped convict him of violating  
the Federal narcotics laws.

The 6-to-1 decision did not es-  
tablish a fixed rule regarding  
disclosure of the testimony of  
secret informers in criminal  
cases. However, Justice Harold  
H. Burton, for the majority, held  
that, in a case where an in-  
former's identity was relevant  
and helpful to the accused in  
preparing his defense, the Gov-  
ernment had no right to with-  
hold it.

Roviario was convicted on two  
counts charging that on Aug. 12,  
1954, in Chicago, he sold heroin  
to "John Doe." He was sen-  
tenced to two years in prison  
and fined \$10.

"John Doe" had driven an au-  
tomobile to a rendezvous and  
picked up Roviario. A policeman  
was concealed in the trunk of  
the auto.

When the car arrived at a  
designated spot, Roviario left  
it, walked a short distance to  
a tree, picked up a package,  
brought it back and placed it  
on the seat of the car. Roviario  
walked away but was arrested  
subsequently after the police  
found a package in the car  
containing heroin.

In appealing his conviction,  
Roviario contended that "John  
Doe" was an active participant  
in the illegal activity and that  
the trial court had erred in re-  
fusing a defense request for his  
name, address and occupation.  
The Government argued that  
"John Doe" was an informer  
and that his identity was privi-  
leged.

Justice Burton said that  
"where the disclosure of an in-  
former's identity, or of the con-  
tents of his communication, is  
relevant and helpful to the de-  
fense of an accused, or is essen-  
tial to a fair determination of a  
cause, the privilege must give  
way."

He said that in three recent  
cases the courts had denied the  
"Government's right to withhold  
the identity of an informer who  
helped set up the commission of  
a crime and who was present at  
its occurrence."

Justice Burton was joined by  
Chief Justice Earl Warren and  
Justices Felix Frankfurter, Wil-  
liam O. Douglas, John M. Harlan  
and William J. Brennan Jr. Jus-  
tice Hugo L. Black did not  
participate, nor did Justice Charles  
E. Whittaker, who was sworn in  
only today.

Justice Tom C. Clark dissented.  
He said that the majority  
ruling would have a "destructive  
effect" upon the enforce-  
ment of the narcotics laws.

Enforcement of the laws is  
difficult without the use of  
"stool pigeons" and the policy  
of nondisclosure of their identi-  
ties long has been followed, Jus-  
tice Clark said.

"Experience teaches that once  
this policy is relaxed, its effec-  
tiveness is destroyed," he added.